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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,675	06/19/2002	Christopher Hargrave Chitty	0074-456224GWW	6868

110 7590 11/04/2003

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EXAMINER

SUHOL, DMITRY

ART UNIT PAPER NUMBER

3712

DATE MAILED: 11/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/031,675

Applicant(s)

CHITTY ET AL.

Examiner

Dmitry Suhol

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22 is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Specification

The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-17, 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the metes and bounds of the phrase encompassed by “and/or” can’t be determined. The specification seems to support both a mouth and a nose opening, however it is unclear if a mouth and nose openings are being claimed or only one of the two.

Regarding claim 11, the metes and bounds of the encompassed by “symbol(s), object(s), or image(s) is/are” can’t be determined. It is unclear if a single symbol, object or image is being claimed or a plurality thereof.

Regarding claim 21, the metes and bounds encompassed by the phrase “mouth and/or nose aperture(s)” can’t be determined. The specification seems to support both a

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mouth and a nose opening, however it is unclear if a mouth and nose openings are being claimed or only one of the two.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Amplatz '772. Amplatz discloses a medical training device containing all of the elements of the claims including, a network of multiple pathways through which a fibrescope may be manipulated (fig. 7) as required by claim 1, pathways formed by connection together of a number of individual branch components (figure 7 and col. 3, lines 36) as required by claim 1 and a mouth or nose aperture (figure 7, where the lower open end of member 101 is considered to be a mouth aperture) as required by claim 1. At least some of branch components being of a general Y-configuration comprising an entry end at least one exit end which may be connected together sequentially to form an expanding number of pathways in two or three dimensions, as required by claim 2, are shown in figure 7 and described in col. 3, lines 29-36. It is also pointed out that the invention of Amplatz is directed to a medical training apparatus for use with torqueable medical devices which are inserted into small body passages (i.e. a fibrescope).

Claims 1-3 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Edde '310. Edde discloses all of the elements of the claims including a network of multiple pathways through which a fibrescope may be manipulated (fig. 3) as required by claims 1 and 21, pathways formed by connection together of a number of individual branch components (figure 4) as required by claims 1 and 21 and a mouth or nose aperture (figure 4, opening at the top of element 216) as required by claims 1 and 21. At least some of branch components being of a general Y-configuration comprising an entry end at least one exit end which may be connected together sequentially to form an expanding number of pathways in two or three dimensions, as required by claims 2 and 21, are shown in figure 4 as element 224. A component representing an internal organ with an entrance passage that expands into an internal cavity, as required by claim 3, is shown in figure 11 as elements 300 and 400 (with the entrance passage being shown as passage 316).

Claim 18 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Asin et al '659. Asin discloses a medical training device containing all the elements of the claim including, an oral and nasal cavities (elements 28a and 28b), a mouth and nose aperture (elements 34 and 36) and an internal organ (elements 28h) comprising an entry passage (element 28g).

Since the above references include all of the structured elements of the claims it is presumed to be inherently capable of all of the claimed functions.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edde '310 in view of Burbank '569. Although Edde discloses all the elements of the claims, as state above, the reference fails to teach a body enclosure for housing a training apparatus, as required by claim 17. However, Burbank discloses a medical training apparatus, like that of Edde, which teaches the use of a body enclosure (element 12) to house a medical training apparatus. Therefore it would have been obvious to one having ordinary skill in the art, at the time of the claimed invention to provide the apparatus of Edde with a body enclosure for the purpose of ease of transport and storage.

Allowable Subject Matter

Claims 4-16 and 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 22 is allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 703-305-0085. The examiner can normally be reached on Mon - Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

A handwritten signature in black ink, appearing to read 'D. Banks', with a large, stylized loop at the end.

DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

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